

HENRI GUZEK

IBLA 80-645

Decided January 26, 1981

Appeal from decision of the Oregon State Office, Bureau of Land Management, declaring mining claims abandoned and void. 3833 (OR).

Affirmed.

1. Federal Land Policy and Management Act of 1976:  
Generally--Federal Land Policy and Management Act of 1976:  
Recordation of Mining Claims and Abandonment-- Mining Claims:  
Recordation

Under sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2, the owner of a mining claim located before Oct. 21, 1976, must file a copy of the Official record of the notice of location for the claim with the proper Bureau of Land Management Office on or before Oct. 22, 1979. Failure to so file is deemed conclusively to constitute an abandonment of the claim by the owner.

2. Notice: Generally--Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations.

APPEARANCES: Michael J. Bird, Esq., for appellant.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

This appeal is taken from a decision of the Oregon State Office, Bureau of Land Management (BLM), declaring appellant's Rainbow's End Nos. 1, 2, 5, and 6 mining claims abandoned and void for failure to comply with recordation requirements of section 314(b) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1744(b) (1976), and 43 CFR 3833.1-2(a) which reads as follows:

The owner of an unpatented mining claim, mill site or tunnel site located on or before October 21, 1976, on Federal lands, \* \* \* shall file (file shall mean being received and date stamped by the proper BLM Office) on or before October 22, 1979, in the proper BLM Office, a copy of the official record of the notice or certificate of location of the claim or site filed under state law.

Appellant does not deny that the required notice or certificates of location were not filed under FLPMA. He asserts that BLM should have notified him prior to the deadline that he had neglected to file the notices for these four claims. BLM did forward appellant a copy of Circular 2419 containing the regulations governing recordation of mining claims under Section 314 of FLPMA in its letters of June 28, 1977, and February 15, 1979. The BLM notice of September 19, 1979, specifically advised appellant that the unpatented mining claims would be abandoned if not recorded with BLM in accordance with the regulations.

[1] The above regulation is mandatory and must be complied with. Nila Tyrrel, 49 IBLA 267 (1980). Failure to file the required certificates is deemed conclusively to constitute an abandonment of the claims by the owner and renders them void. 43 CFR 3833.4; James E. Cooper, 48 IBLA 175 (1980).

[2] FLPMA and the regulation make no provisions for the late filing of required documents and the burden of timely filing rests with the claimant, who, as a person dealing with the Government, is presumed to have knowledge of duly promulgated statutes and regulations. Fred S. Ghelarducci, 41 IBLA 277 (1979).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Gail M. Frazier

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Administrative Judge

We concur:

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Douglas E. Henriques  
Administrative Judge

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James L. Burski  
Administrative Judge

